

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

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Jeffrey Culbreath, Plaintiff,  
\_\_\_\_\_  
\_\_\_\_\_

**17CV3406**

(IN THE SPACE ABOVE ENTER THE FULL NAME(S) OF THE PLAINTIFF(S).)

Complaint

v.

under the

Civil Rights Act, 42 U.S.C 1983

Defendant No. 1 THOMAS GRIFFIN  
\_\_\_\_\_

Jury Trial: Yes ☒ No ☐

Defendant No. 2 MICHAEL T. NAGY  
\_\_\_\_\_

(check one)

Defendant No. 3 MARK A. TOKARZ,  
Defendants.  
\_\_\_\_\_

Defendant No. 4 \_\_\_\_\_  
\_\_\_\_\_

Defendant No. 5 \_\_\_\_\_  
\_\_\_\_\_

(In the space above, enter the full name(s) of the defendant(s). If you cannot fit the names of all of the defendants in the space provided, please write, "see attached," in the space above and attach an additional sheet of paper with the full list of names. The names listed in the above caption must be identical to those contained in Part 1. No addresses should be included here.)

## Parties in this complaint:

List your name, identification number, and the name and address of your current place of confinement. Do the same for any additional plaintiffs named. Attach additional sheets of paper as necessary:

Plaintiff: Name Jeffrey Culbreath  
 ID # 95B1028  
 Current Institution GREEN HAVEN CORR. FAC.  
 Address 594 Route 216  
Stormville, N.Y. 12582

List all defendants' names, positions, places of employment, and the address where each defendant may be served/ Make sure that the defendant(s) listed below are identical to those contained in the above caption. Attach additional sheets of paper as necessary.

Defendant No. 1 Name Supt. Thomas Griffin Shield # \_\_\_\_\_  
 Where Currently Employed GREEN HAVEN CORR. FAC.  
 Address 594 Route 216  
Stormville, N.Y. 12582

Defendant No. 2 Name C.O. Michael T. Nagy Shield # \_\_\_\_\_  
 Where Currently Employed GREEN HAVEN CORR. FAC.  
 Address 594 Route 216  
Stormville, N.Y. 12582

Defendant No. 3 Name Lt. MARK A. TOKARZ Shield # \_\_\_\_\_  
 Where Currently Employed GREEN HAVEN CORR. FAC.  
 Address 594 Route 216  
Stormville, N.Y. 12582

Defendant No. 4 Name \_\_\_\_\_ Shield # \_\_\_\_\_

Where Currently Employed \_\_\_\_\_

Address \_\_\_\_\_  
\_\_\_\_\_

Defendant No. 5 Name \_\_\_\_\_ Shield # \_\_\_\_\_

Where Currently Employed \_\_\_\_\_

Address \_\_\_\_\_  
\_\_\_\_\_

## Statement of claim:

State as briefly as possible the facts of your case. Describe how each of the defendants named in the caption of this complaint is involved in this action, along with the dates, and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not give any legal arguments or cite any cases or statutes. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. Attach additional sheets of paper as necessary.

In what institution did the events giving rise to your claim(s) occur? Green HavenCorrectional Facility, Stormville, N.Y.Where in the institution did the events giving rise to your claim(s) occur West SideMess Hall

What date and approximate time did the events giving rise to your claim(s) occur? \_\_\_\_\_

August 3, 2015 approx 7:45 AM.

Facts: \_\_\_\_\_

See Attached "Facts Sheet" as pgs. 3A thru 3c.  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

## FACTS SHEET

### Facts:

① While plaintiff was eating breakfast in Green Haven's West Side Mess Hall, two other inmates began fighting. Within seconds, corrections officers stopped the fight and the two inmates were handcuffed and laid face down on the floor.

② Defendant Nagy occupied and controlled the West Side Mess Hall Chemical Agent Booth and maliciously released canisters of chemical agents in spite of being aware that both fighting inmates had been secured. A corrections officer ordered plaintiff to remain seated, and plaintiff during such time began experiencing extreme levels of burning pain about his face, eyes, head, neck, arms, and was coughing uncontrollably.

③ Defendant Nagy then suddenly released an additional array of chemical agent canisters upon the entire West Side Mess Hall. Plaintiff was blinded by the gas/smoke like substance & experienced sharp, stinging pain in his nasal passage and lungs, was unable to breath, and continued coughing.

④ Corrections officers then directed plaintiff and the other inmates to exit the West Side Mess Hall. In the process, a stampede developed causing plaintiff to collapse and be overrun by inmates and officers, causing him to land on his left elbow and shoulder.

## FACTS SHEET

While on the ground, inmates trampled plaintiff and stomped on his back, legs, hands, head, chest and stomach. Plaintiff eventually got up and limped toward the C and D Yard entrance door as directed.

⑤ Upon entering C and D Yard, defendant Lt. Tokarz ordered corrections officers to direct plaintiff and other inmates to place their hands on the D-Block corridor wall. Tokarz did not begin the decontamination process and he directed correctional officers to take down any inmate <sup>that</sup> removed their hands from the wall and cuff him. Plaintiff was forced to remain with his hands on the wall for about an hour standing up while experiencing excruciating pain about his lungs, arms, shoulders, face, eyes, ~~and~~ <sup>and</sup> nose. ~~and~~ ~~and~~

⑥ Plaintiff was then directed to remove his clothing that was covered with residue from the chemical agents. Plaintiff was forced to walk barefoot in his underwear to the shower and ~~was~~ allowed to only wash his face and arms. Plaintiff was then ordered to line up in the dirt until he was escorted to his housing unit.

⑦ Defendant Griffin negligently supervised Conagy. Prior to this incident, plaintiff's fellow inmates' grievances, complaints, and appeals put Griffin on Notice

## FACTS SHEET

of Nagy's tendency to use excessive force. Griffin's failure to take corrective action against Nagy fostered the unconstitutional policy and practices of Nagy. In addition, on April 16, 2015, inmate Trevor Burns submitted a grievance complaining about Nagy's intoxication at work, threats to do serious physical injury to inmates, and his use of racial slurs. Nagy also attacked another inmate shortly after inmate Trevor Burns submitted the April 16<sup>th</sup> grievance and defendant Griffin was aware of this assault. Upon this, Griffin knew or should have known of Nagy's propensity to use excessive force against inmates, and yet failed to discipline Nagy adequately or monitor his actions.

⑧ Defendant Nagy deprived plaintiff of his constitutional right to be free from cruel and unusual punishment in the form of excessive force.

⑨ Defendant Griffin, through his negligent supervision over defendant Nagy, deprived plaintiff of his constitutional right to be free from cruel and unusual punishment in the form of excessive force.

⑩ Defendant Tokarz, through his conduct, deprived plaintiff of his constitutional right to be free from the deliberate indifference to serious medical needs.


**Injuries:**

If you sustained injuries related to the events alleged above, describe them and state what medical treatment, if any, you required and received. Painful irritation in both eyes; SHARP pain and

Mucus secretion in both eyes; tearing eyes when exposed to light; headaches; impaired vision; future risk of blindness; nasal and throat irritation; neck pain; permanent bruise on left elbow and shoulder; difficulty breathing for approx. a week; pain in left elbow and shoulder for approx. a week; permanent damage to lower back causing uncomfortable pain and limited mobility; stress; loss of appetite; anxiety; lack of sleep for nearly 3 days due to discomfort and anxiety.

**Exhaustion of Administrative Remedies:**

The Prison Litigation Reform Act of 1995, 42 U.S.C. 1997e(a), requires that, "no action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted." Administrative remedies are also known as grievance procedures.

Did your claim(s) arise while you were confined in a jail, prison, or other correctional facility?

Yes ☒ No ☐

If YES, name the jail, prison or other correctional facility where you were confined at the time of the events giving rise to your claim(s). \_\_\_\_\_

Green Haven Correctional Facility, Stormville, N.Y.

If NO, why not? \_\_\_\_\_

N/A

Please set forth any additional information that is relevant to the exhaustion of your administrative remedies. \_\_\_\_\_

Plaintiff filed a formal Grievance w/ the facility,  
and it was assigned Grievance # GH-80418-15

Note: You may attach as exhibits to this complaint any documents related to the exhaustion of your administrative remedies.

Relief:

State what you want the court to do for you. Plaintiff seeks to be awarded  
\$350,000.00 in both Compensatory and Punitive Damages  
against each defendant, thereby totaling the Award to the  
sum of \$1,050,000.00 (One Million & Fifty Thousand Dollars  
and zero cents)

Previous Lawsuits :

Have you filed other lawsuits in state or federal court dealing with the same facts involved in this  
action? Yes \_\_\_\_\_ No ☒

If your answer to A is YES, describe each lawsuit in questions 1 through 7 on the next page. If there  
is more than one lawsuit, describe the additional lawsuits on another piece of paper, using the  
same format.



Parties to this previous lawsuit:

Plaintiff N/A

Defendants \_\_\_\_\_

Court (if federal court, name the district; if state court, name the county) \_\_\_\_\_

Docket or Index number: \_\_\_\_\_

Name of Judge assigned to your case: \_\_\_\_\_

Approximate date of filing lawsuit: \_\_\_\_\_

Is the case still pending? Yes \_\_\_\_\_ No \_\_\_\_\_

If NO, give the approximate date of disposition: \_\_\_\_\_

What was the result of the case? (for example: Was the case dismissed? Was there judgment in your favor? Was the case appealed?) \_\_\_\_\_

Have you filed other lawsuits in state or federal court otherwise relating to your imprisonment?

Yes \_\_\_\_\_ No ☒

If your answer to C is YES, describe each lawsuit in questions 1 through 7 on the next page. (If there is more than one lawsuit, describe the additional lawsuits on another piece of paper, using the same format.)

Parties to this previous lawsuit:

Plaintiff N/A

Defendants \_\_\_\_\_

Court (if federal court, name the district; if state court, name the county) \_\_\_\_\_

Does the jail, prison, or other correctional facility where your claim(s) arose have a grievance procedure? Yes ☒ No ☐ Do Not Know ☐

Does the grievance procedure at the jail, prison, or other correctional facility where your claim(s) arose cover some or all of your claim(s)? Yes ☒ No ☐ Do Not Know ☐

If Yes, which claim(s)? All

Does the grievance procedure at the jail, prison, or other correctional facility where your claim(s) arose not cover some of your claim(s)? Yes ☐ No ☒ Do Not Know ☐

If Yes, Which claim(s)? N/A

Did you file a grievance in the jail, prison, or other correctional facility where your claim(s) arose? Yes ☒ No ☐

If NO, did you file a grievance about the events described in this complaint at any other jail, prison, or other correctional facility? Yes N/A No N/A

If you did file a grievance about the events described in this complaint, where did you file the grievance? with the facility's Grievance Committee

Which claim(s) in this complaint did you grieve? All the claims

What was the result, if any? According to my recollection, it was a split decision.

What steps, if any, did you take to appeal that decision? Describe all efforts to appeal to the highest level of the grievance process. My Grievance was consolidated with approximate 50 other complainants filing a grievance for the same reason. As such, the appeal put forth by individuals like inmate TREVOR BURNS was representative for all complainants involved in the said same grievance

If you did file a grievance, did you inform any officials of your claim(s)? Yes ☒ No ☐

If YES, whom did you inform and when did you inform them? Defendant Supt. Griffin and he was informed thru grievance process.

Approximate date of filing lawsuit: n/A

Is the case still pending? Yes n/A No n/A

If NO, give the approximate date of disposition: n/A

What was the result of the case? (for example: Was the case dismissed? Was there judgment in your favor? Was the case appealed?) \_\_\_\_\_

n/A

Signed this 25<sup>th</sup> day of April, 20 17. I declare under penalty of perjury that the foregoing is true and correct.

Signature of Plaintiff: Jeffrey Culbreath / Jeffrey Culbreath

Inmate Number: #95B1028

Mailing Address: Green Haven C.F.

594 Route 216

Stormville, N.Y. 12582

Note: All plaintiffs named in the caption of the complaint must date and sign the complaint and provide their inmate numbers and addresses.

I declare under penalty of perjury on this 25<sup>th</sup> day of April, 20 17, I will deliver this complaint to prison authorities to be mailed to the Pro SE Office of the United States District Court for the Southern District of New York.

Signature of Plaintiff: Jeffrey Culbreath / Jeffrey Culbreath



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500 Pearl St., Rm. 230  
New York, N.Y. 10007

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